

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders, or their designees, with the majority controlling the first half and the Republicans controlling the second half.

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DETAINEE PHOTOGRAPHIC RECORDS PROTECTION ACT

Mr. LIEBERMAN. Mr. President, I rise to speak in morning business about supporting President Obama in his efforts to protect the safety and security of the American people, the American military, and the civilian personnel serving us all abroad. This goes to the question of the pending lawsuit by the American Civil Liberties Union that would require the publication of various photographs of treatment by Americans of detainees.

On May 13, President Obama announced that he would not release nearly 2,100 photographs depicting the alleged mistreatment of detainees in U.S. custody. Detainees are what we normally call "prisoners of war," except they have a lower status than that under the Geneva Conventions. Many of these photographs were the subject of a Freedom of Information Act lawsuit filed by the ACLU, while others were discovered during internal Department of Defense investigations into detainee abuse.

Last fall, as part of that lawsuit, the Second Circuit Court of Appeals in New York ordered the release of many of those photographs. Instead of appealing that decision to the Supreme Court at that time, government lawyers agreed to release the images, as well as others that were part of the internal Department of Defense investigation.

Senator LINDSEY GRAHAM and I strongly objected to that decision and wrote a letter to the President explaining our position. We know that photographs such as the ones at issue in the ACLU lawsuit are, in fact, used by Islamist terrorists around the world to recruit followers and inspire attacks against American service men and women. In particular, there is compelling evidence that the images depicting detainee abuse at Abu Ghraib was a great spur to the insurgency in Iraq and made it harder for our troops to succeed safely in their mission there.

After consulting with his commanders on the ground, including General Petraeus and General Odierno, President Obama decided to reverse the decision of the government lawyers and fight the release of these photographs. Of course, I feel very strongly that he made not only a gutsy decision but the entirely right decision.

The President said, in making that decision:

The publication of these photos would not add any additional benefit to our understanding of what was carried out in the past by a small number of individuals. In fact, the most direct consequence of releasing them, I believe, would be to further inflame anti-American opinion and to put our troops in great danger.

I strongly believe this decision was the right one by the President, acting as Commander in Chief. It will protect our troops in Iraq, Afghanistan, and elsewhere, and it will make it easier and safer for them to carry out the missions we have asked them to do. In fact—and this has become public in recent days, and I heard it earlier around the time the President made the decision—after learning that the release of these photographs was either possible or likely, before President Obama's decision to appeal, Iraq's Prime Minister Maliki said, according to these press reports, that "Baghdad will burn" if the photos are released, jeopardizing many of the remarkable security gains our military and civilian personnel have achieved in Iraq in recent years, putting our troops and personnel in danger.

To support the President's decision and establish a procedure to protect the release of similar photos in the future, for the exact same reason, Senator GRAHAM—my colleague and friend, who is now on the floor—and I introduced the Detainee Photographic Records Protection Act. That legislation would authorize the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs, to certify to the President that the disclosure of photographs such as the ones at issue in the ACLU lawsuit would endanger the lives of U.S. citizens and members of the armed services deployed abroad. Essentially, our bill would codify the exact process that President Obama went through in arriving at his decision to fight the release of these photos.

Also, the language in the bill Senator GRAHAM and I introduced is clear, we believe, in that it would apply to the current ACLU lawsuit and block the release of these photographs, preventing the damage to American lives that would occur from that release.

The Senate unanimously supported the inclusion of a slightly modified version of the Detainee Photographic Records Protection Act in the supplemental appropriations bill for the wars in Iraq and Afghanistan. The Senate then approved the supplemental bill by a vote of 86 to 3 before we broke for the Memorial Day recess.

I rise today, along with my friend and colleague from South Carolina, to strongly encourage our colleagues in the Senate and in the House on the conference committee to include the modified version of the Detainee Photographic Records Protection Act in the conference report that is currently being negotiated.

We know there are those who are urging the conferees to delete this provision, or to water it down. That would be a terrible mistake. As President Obama well understands, nothing less than the safety and security and lives of our military service men and women is at stake—not to mention our non-military personnel deployed abroad, not to mention Americans here at home and throughout the world, who may be at risk of terrorist attack by an individual recruited to Islamist extremism and terrorism, as a result of the anger spurred by the release of these photographs.

Bottom line: American lives are at stake. Senator GRAHAM and I feel so strongly about this. I will speak for myself here and then allow him, in a moment, to speak for himself. Any decision to eliminate this provision from the Supplemental Appropriations Act, or to water it down so it has no meaning, would lead me, certainly, much as I support what is in the Supplemental Appropriations Act, to oppose that act, because I think a failure to back up President Obama in this matter would, as I have said, compromise safety and, ultimately, the lives of a lot of Americans, particularly those in uniform.

Let me be clear. By including the Detainee Photographic Records Protection Act in the conference report for the supplemental appropriations bill, Congress will not be condoning the behavior depicted in the photographs. In fact, the exact opposite is true. Such behavior has already been prohibited by Congress in the Detainee Treatment Act and the Military Commissions Act as well as by executive orders issued by President Obama.

We expect that those responsible for the mistreatment of detainees will be held accountable. And that is exactly what the Department of Defense has done with the internal investigations that are finished or are underway.

But the bottom line is that the release of these photographs, and potentially others that may be discovered, will endanger the lives of our military personnel and every U.S. citizen. Every American, whether in a military uniform or not, will always be a target for al-Qaida or supporters of al-Qaida around the world.

The public release of these pictures, which we know will be spread on violent jihadist Web sites around the world immediately after they are published, will only energize the efforts of our enemies.

With the inclusion of the Detainee Photographic Records Protection Act in the supplemental appropriations bill conference report, Congress has the opportunity to support the President in